

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MARIAH DIANE BOWLES

Plaintiff,

v.

APRO INTERNATIONAL, INC.,
INSURANCE COMPANY OF THE STATE
OF PENNSYLVANIA, AMERICAN
INTERNATIONAL GROUP, INC., and
currently unknown JANE DOES and JOHN
DOES,

Defendants.

Case No.: 4:18-cv-01869

**DEFENDANT INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA'S
MOTION TO DISMISS PLAINTIFF'S CLAIMS**

Defendant The Insurance Company of the State of Pennsylvania ("ICSOP") brings this Motion to Dismiss Counts I, II, III, and V, pursuant to Fed. R. Civ. P. 12(b)(6), because Plaintiff Mariah Diane Bowles ("Plaintiff") fails to state claims upon which relief can be granted.

Plaintiff fails to state any claims against ICSOP because she depends on the conclusory allegation that ICSOP is a "covered entity" subject to HIPAA to support her allegations that ICSOP allegedly made unauthorized disclosures of her medical and mental health records to her former employer. ICSOP, however, is not a "covered entity" and, thus, is not subject to HIPAA. Plaintiff's claims must fail if ICSOP is not subject to the standard of care that Plaintiff purports applies to ICSOP's alleged acts and omissions.

Yet, even if HIPAA could set the standard of care, any alleged disclosures were made as part of a workers' compensation action, and, thus, were authorized by law. Without unauthorized disclosure, Plaintiff has no basis for relief on any of her claims.

In the alternative, ICSOP seeks dismissal or judgment on the pleadings under Fed. R. Civ. P. 12(c) because Plaintiff's claims are not properly before this Court. Plaintiff alleges that she is suffering a "reoccurrence" of her workplace injury. Being a reactivation claim, Plaintiff's claims should be brought exclusively before the Department of Labor.

ICSOP's Memorandum in Support of its Motion to Dismiss is incorporated herein by reference.

WHEREFORE, Defendant Insurance Company of the State of Pennsylvania respectfully requests that this Court dismiss all of Plaintiff Mariah Diane Bowles' claims against ICSOP or, in the alternative, enter judgment on the pleadings on all claims against ICSOP. ICSOP also requests that this Court provide all other relief that is just and proper.

Date: January 18, 2019

Respectfully submitted,

/s/ Jean-Paul Assouad

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**ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served on this 18th day of January, 2019, using the Court's ECF system, which provided notice to all parties of record.

/s/ Jean-Paul Assouad

ATTORNEY FOR DEFENDANTS